

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

Ping Lu, Jill McKeon, Richard McKeon,
Stephen Spencer, Spencer Stopa, and Judy C.
Winnegar, on their own behalf and on behalf of
a certified class of similarly situated persons,

Plaintiffs,

v.

Case No. 1:14-CV-00618-KBM-RHS

OppenheimerFunds, Inc., OFI Private
Investments, Inc., and OppenheimerFunds
Distributor, Inc.,

Defendants.

**DECLARATION OF JOSHUA D. N. HESS IN SUPPORT OF OFI'S MOTION TO
DISMISS THE FIRST AMENDED COMPLAINT**

I, Joshua D. N. Hess, declare and state:

1. I am an attorney licensed to practice law in the State of California and partner with the law firm of Dechert LLP, counsel for defendants OppenheimerFunds, Inc. ("OFI"), OFI Private Investments, Inc. ("OFIPI"), and OppenheimerFunds Distributor, Inc. ("OFDI") (collectively, "OFI") in the above captioned action. I have personal knowledge of the facts set forth below and if called as a witness I could testify competently to them.

2. I submit this declaration in support of OFI's Motion to Dismiss the First Amended Complaint.

3. Attached hereto as Exhibit 1 is a true and correct copy of the First Amended Class Action Complaint in *Lu, et al. v. The Education Trust Board of New Mexico, et al.*, No. D-101-

CV-2009-02051 (the "Class Action), filed December 21, 2009 in the State of New Mexico, County of Santa Fe, First Judicial District.

4. Attached hereto as Exhibit 2 is a true and correct copy of the Program Management Agreement by and between the State of New Mexico acting by and through the Education Trust Board of New Mexico and OFI and OFDI, dated as of November 10, 2005.

5. Attached hereto as Exhibit 3 is a true and correct copy of the Settlement Agreement between the Education Trust Board of New Mexico, the New Mexico Education Plan Trust, and the State of New Mexico, and OFI, OFIPI, and OFDI, dated June 16, 2010.

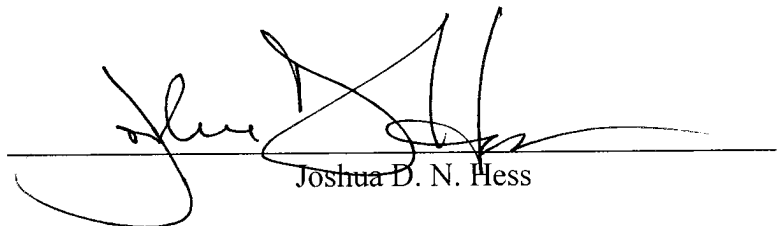
6. Attached hereto as Exhibit 4 is a true and correct copy of the Joint Unopposed Motion for Final Approval of Class Action Settlement Agreement, filed in the Class Action on February 24, 2014.

7. Attached hereto as Exhibit 5 is a true and correct copy of the Letter from Joshua D. N. Hess to The Honorable T. Glenn Ellington, submitted in the Class Action and served on all parties on February 10, 2014.

I executed this declaration on this 21st day of July, 2014, in San Francisco, California.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Dated: July 21, 2014


Joshua D. N. Hess